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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,836	10/22/2001	Komatsu Hiroshi	8733.036.21	8478
30827	7590	01/09/2004	EXAMINER	
MCKENNA LONG & ALDRIDGE LLP			TON, MINH TOAN T	
1900 K STREET, NW			ART UNIT	
WASHINGTON, DC 20006			PAPER NUMBER	

2871

DATE MAILED: 01/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/982,836	HIROSHI, KOMATSU	
	Examiner	Art Unit	
	Toan Ton	2871	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10-21-03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Double Patenting

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 28-34, 36-42 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-10 of prior U.S. Patent No. 6,317,183. This is a double patenting rejection.

The present application and the patent claim a liquid crystal display (LCD) device comprising: a first substrate; a first alignment layer on the first substrate; a second substrate; a second alignment layer on the second substrate; a liquid crystal layer between the first substrate and the second substrate; a gate line on the first substrate; and data and common electrodes on the first substrate, the data electrode being connected to a data line and the common electrode being connected to a common line, and a distance between the electrodes being less than a thickness of the liquid crystal layer.

The present application and the patent claim an alignment direction of liquid crystal molecules of the liquid crystal layer adjacent to the first substrate is parallel to the gate line.

The present application and the patent claim an alignment direction of liquid crystal molecules of the liquid crystal layer adjacent to the first substrate is perpendicular to the gate line.

The present application and the patent claim the first electrode has a first electrode width, the second electrode has second electrode width approximately equal to the first electrode width, and a distance between the first electrode and the second electrode is approximately equal to the first electrode width.

The present application and the patent claim a polarizer formed on the first substrate and an analyzer formed on the second substrate.

The present application and the patent claim a thin film transistor formed between the first substrate and the first alignment layer.

The present application and the patent claim a retardation film formed on said second substrate.

Per the limitations pertaining the strength (see claims 38-41), these are inherent to the device.

3. Claims 28-31, 33-42 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-26 of U.S. Patent No. 5,995,186. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present claims are broader in scope than the patented claims.

The present application and the patent claim a liquid crystal display (LCD) device comprising: a first substrate; a first alignment layer on the first substrate; a second substrate; a second alignment layer on the second substrate; a liquid crystal layer between the first substrate and the second substrate; a gate line on the first substrate; and data and common electrodes on the first substrate, the data electrode being connected to a data line and the common electrode being connected to a common line, and a distance between the electrodes being less than a thickness of the liquid crystal layer (see patented claim 24).

The present application and the patent claim an alignment direction of liquid crystal molecules of the liquid crystal layer adjacent to the first substrate is parallel to the gate line.

The present application and the patent claim an alignment direction of liquid crystal molecules of the liquid crystal layer adjacent to the first substrate is perpendicular to the gate line.

The present application and the patent claim a polarizer formed on the first substrate and an analyzer formed on the second substrate.

The present application and the patent claim different anchoring strength between the two alignment layers.

The use of a retardation film is common and known in the art for advantages such as improved viewing-angle.

Per the limitations pertaining the strength (see claims 38-41), these are inherent to the device.

Response to Arguments

4. Applicant's arguments filed 10-21-03 have been fully considered but they are not persuasive.

Applicant only stated that the pending claims are believed to be in immediate condition for allowance (no other arguments were presented).

The obviousness double patenting rejection (5,995,186 and 6,317,183) is believed still to be valid. The present application and the patent claim a liquid crystal display (LCD) device comprising: a first substrate; a first alignment layer on the first substrate; a second substrate; a second alignment layer on the second substrate; a liquid crystal layer between the first substrate and the second substrate; a gate line on the first substrate; and data and common electrodes on the first substrate, the data electrode being connected to a data line and the common electrode being connected to a common line, and a distance between the electrodes being less than a thickness of the liquid crystal layer.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Contact Information

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan Ton whose telephone number is (703) 305-3489. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 0956.

January 6, 2004


TOANTON
PRIMARY EXAMINER